

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION**

UNITED STATES OF AMERICA)	
)	
v.)	Case No. 1:01-CR-36
)	
LANCE ROYAL)	
)	
Defendant)	
)	

ORDER

On December 7, 2007, Royal filed a *pro se* Motion to Reduce Sentence pursuant to 18 U.S.C. §3582(c)(2) based upon the of the 2007 retroactive amendment to the crack guidelines, U.S.S.G. §2D1.1. In response to this Motion, the undersigned referred the matter to the Federal Community Defender for appointment of counsel. On February 14, 2008, the Government filed its response in opposition to Royal's motion and the court ordered defense counsel to reply. In lieu of filing a reply, Royal's court-appointed counsel submitted an Amended Notice to the Court informing the Court that because Royal was sentenced to a mandatory minimum sentence under U.S.S.G. §5G1.1, he is not eligible for a sentencing reduction under the amendment to the crack guidelines and therefore, a motion under 18 U.S.C. §3582(c) based upon the amendment to the crack guidelines was inappropriate. On April 23, 2008, the United States Probation Office submitted an "Addendum to the Presentence Report" which further confirms that even with the retroactive amendment Royal is not eligible for a sentencing reduction under the 2007 crack cocaine guideline amendment because the statutorily required minimum sentence of 120 months is the required sentence by U.S.S.G. §5G1.1(b).

The court has reviewed these filings and has determined based upon those filings that the Defendant's *pro se* Motion for Sentencing Reduction will be DENIED. The Defendant was

sentenced to 60 months imprisonment on Counts I and II to run consecutively. Both of these sentences were statutory mandatory minimum sentences and were not based upon a calculation of the guidelines which has subsequently been lowered by the Sentencing Commission. *See* 18 U.S.C. §3582(c)(2) and Policy Statement, §1B1.10. Accordingly, the Defendant is not eligible for a reduction in his sentence and the Defendant's Motion pursuant to 18 U.S.C. §3582(c)(2) is DENIED.

The Defendant is advised that he may appeal this Order to the Seventh Circuit Court of Appeals within the time provided by Fed.R.App.P. 4. The Clerk is hereby DIRECTED to serve the Defendant a copy of this Order at his place of incarceration.

SO ORDERED. This 8th day of May, 2008.

s/ William C. Lee
United States District Court